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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,539	01/19/2001	Robert E. Dvorak	BLFR 1005-1	9951
22470	7590	04/27/2005	EXAMINER	
HAYNES BEFFEL & WOLFELD LLP P O BOX 366 HALF MOON BAY, CA 94019			VAN DOREN, BETH	
			ART UNIT	PAPER NUMBER
			3623	
DATE MAILED: 04/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/766,539

Applicant(s)

DVORAK, ROBERT E.

Examiner

Beth Van Doren

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-115 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-115 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20050316.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The following is a non-final office action in response to communications received 01/31/05. Claims 1-115 are pending.

#### ***Response to Amendment***

2. Applicant's amendments to the drawings are sufficient to overcome the previous drawing objections. However, new drawing objections have been set forth below.

#### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-115 have been considered but are moot in view of the new grounds of rejection.

#### ***Drawings***

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. The current drawings do not show every feature of the pending claims. Therefore, the limitations of the claims must be shown or the features canceled from the claims. No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the

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remaining figures. The replacement sheets should be labeled "Replacement Sheet" in the page header as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Specification*

5. The disclosure is objected to because of the following informalities: The section entitled "Brief Description of the Drawings" do not address the currently number claims. The drawings are numbered figure 1 through figure 9, while the description contains figures 1 and 30-34. Examiner further notes that the figures are further misnumbered throughout the detailed description. Appropriate correction is required.

### *Claim Objections*

6. Claims 23, 46, 69, 92, and 115 are objected to because they recite "utilized by as input to an additional process". This limitation should more appropriately recite --utilized as input to an additional process--. Correction is required.

### *Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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8. Claims 1-7, 10-30, 33-53, 56-76, 79-99, and 102-115 are rejected under 35 U.S.C. 102(e) as being anticipated by Landvater (U.S. 6,609,101).

9. As per claim 1, Landvater teaches an improved management decision support system, including a computer system having memory and resources, a retail demand forecasting program applying one or more forecasting approaches, running on the computer system and generating output, and a set of analysis programs, running on the computer system and utilizing the output, said analysis programs generating at least one of (a) order of goods from a supplier-related data, (b) allocation of the goods to be shipped by the supplier-related data, or (c) distribution of goods to selling locations-related data (See figures 1, 2, 5, 9, and column 8, lines 9-40), the improvement comprising:

a presentation demand calendar utilized by the forecasting program to generate the output, said presentation demand calendar associating with a plurality of good-selling location pairs, data including a good identifier, a selling location identifier, and one or more presentation quantities each associated with a start date and a stop date (See figures 14, 15, 18, and 22, column 6, lines 45-60, column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 17, lines 35-57, column 19, lines 5-17, and column 21, lines 15-25, column 23, lines 45-65, wherein a presentation demand calendar is used with the forecasting program to determine stock and replenishment for each of the retail locations); and

one or more additional analysis programs in the set of analysis programs generating at least two of: open to buy analysis, promotional planning or forward buying, bottom-up planning analysis (See figures 19-21 and column 17, lines 5-55, which disclose promotions planning. See figures 10 and 16-17 and column 11, line 53-column 12, line 40, which discloses top-down

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planning by considering causal factors such as holidays. See figure 2 and column 20, lines 30-50, which discusses OTB management by considering the financials and inventory budget).

10. As per claim 2, Landvater teaches wherein the start date and the stop date are implicitly associated with a memory location in which the presentation quantity is stored (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the start and stop date are implicitly stored).

11. As per claim 3, Landvater teaches wherein the start date and the stop date are explicitly stored (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein the start and stop date are explicitly stored).

12. As per claim 4, Landvater teaches wherein the start dates and stop dates for the one or more presentation quantities define non-overlapping periods (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, wherein a presentation ends when another begins in the planning of the system for the same item).

13. As per claim 5, Landvater teaches wherein the start dates and stop dates for the one or more presentation quantities define overlapping periods (See figures 14, 15, 18, column 6, lines 45-60, column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 23, lines 45-65, wherein start and stop dates exist for different products thought the system and therefore the presentation of product A and product B would differ, and thus, overlap).

14. As per claims 6 and 7, Landvater teaches wherein the good identifier associated with good-selling location pairs includes a good number and a good description and Landvater also teaches a good description table (See column 8, lines 5-25, wherein the good identifier includes the good number on hand and a product description, which are stored in the database).

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15. As per claims 10-12, Landvater teaches wherein the set of analysis programs is adapted to basic retail goods, to seasonal retail goods, and to fashion retail goods (See column 10, lines 30-45, column 12, lines 9-40, column 15, lines 25-50, and column 19, lines 5-20, wherein the program considers basic goods, retail goods, and seasonal goods of retailers).
16. As per claim 13, Landvater teaches wherein the set of analysis programs operate on daily or more frequent period forecasts (See figure 8, column 10, lines 20-50, column 13, lines 30-36 and 49-58, which discusses daily forecasts).
17. As per claim 14, Landvater teaches wherein the set of analysis programs operate on weekly forecasts (See figure 8, column 10, lines 20-50, column 11, lines 1-25, and column 21, lines 15-35, which discuss weekly forecasts).
18. As per claim 15, Landvater teaches wherein the set of analysis programs operate on pairings of individual goods in individual selling locations (See column 8, lines 5-25, column 11, lines 20-32, column 17, lines 35-57, column 19, lines 5-17, column 23, lines 45-65, which discuss goods at individual locations).
19. As per claim 16, Landvater teaches wherein the set of analysis programs operate on groups of goods in individual selling locations (See column 5, lines 1-5, column 8, lines 5-25, column 11, lines 20-32, column 15, lines 25-45 and 55-65, column 23, lines 45-65, which discuss groups of goods).
20. As per claim 17, Landvater discloses wherein the set of analysis programs operate on individual goods in groups of selling locations (See column 8, lines 5-25, column 11, lines 20-32, column 17, lines 35-57, column 19, lines 5-17, which discuss individual goods at multiple selling locations, and overriding occurs).

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21. As per claim 18, Landvater teaches wherein the set of analysis programs operate on groups of goods in groups of selling locations (See column 5, lines 1-5, column 8, lines 5-25, column 11, lines 20-32, column 15, lines 25-45 and 55-65, column 17, lines 35-57, column 19, lines 5-17, wherein goods are grouped and projected across the retailers).
22. As per claim 19, Landvater teaches wherein the analysis is displayed on a monitor in communication with the computer system (See figures 4 and 22, column 7, lines 35-50, column 21, lines 15-35, which discusses a monitor in connection with the system).
23. As per claim 20, Landvater teaches wherein the analysis is saved in spreadsheet file format (See column 21, lines 15-40, which teaches spreadsheets).
24. As per claim 21, Landvater discloses wherein the analysis is printed on paper, microfiche, or optical media (See column 7, lines 35-50, wherein the analysis is placed on optical media).
25. As per claim 22, Landvater teaches wherein the analysis is distributed by e-mail or other messaging facility (See figure 3, column 7, line 50-column 85 and 25-45, column 21, lines 15-34 and 41-50, column 22, lines 30-55, wherein the forecasting and other analysis is transmitted in a client server environment).
26. As per claim 23, Landvater teaches wherein the analysis is utilized as input to an additional process (See figures 2 and 22, column 7, lines 35-50, column 20, lines 30-50, wherein the analysis is used with other analyses).
27. Landvater teaches the claim limitation of claim 24, as set forth above in the rejection of claim 1. Landvater further teaches a system comprising:



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an additional analysis program in the set of analysis programs generating data reported in open to buy reports (See figure 2 and column 20, lines 30-50, which discusses open to buy management by considering the financials and inventory budget).

28. Claims 25-30 and 33-44 recite equivalent limitations to claims 2-7 and 10-21, respectively, and are therefore rejected using the same art and rationale as applied above.

29. Landvater teaches the claim limitation of claim 47, as set forth above in the rejection of claim 1. Landvater further teaches a system comprising:

an additional analysis program in the set of analysis programs generating data reported in markdown management reports (See column 12, lines 25-30, and column 17, lines 5-55, which discusses promotions and sales and taking into consideration sales when producing forecasts).

30. Claims 48-53 and 56-67 recite equivalent limitations to claims 2-7 and 10-21, respectively, and are therefore rejected using the same art and rationale as applied above.

31. Landvater teaches the claim limitation of claim 70, as set forth above in the rejection of claim 1. Landvater further teaches a system comprising:

an additional analysis program in the set of analysis programs generating data reported in bottom-up planning reports (See figures 5 and 9, column 8, lines 11-35, column 10, lines 20-30, column 11, lines 5-25, column 13, lines 30-40, column 19, lines 29-45, column 21, lines 15-35, which discuss bottom-up planning by providing sales, inventory, and receipt information on a daily or weekly basis).

32. Claims 71-76 and 79-90 recite equivalent limitations to claims 2-7 and 10-21, respectively, and are therefore rejected using the same art and rationale as applied above.

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33. Landvater teaches the claim limitation of claim 93, as set forth above in the rejection of claim 1. Landvater further teaches a system comprising:

an additional analysis programs in the set of analysis programs generating data reported in top-down planning reports (See figures 10 and 16-17 and column 11, line 53-column 12, line 40, which discloses top-down planning by considering causal factors such as holidays).

34. Claims 94-99 and 102-113 recite equivalent limitations to claims 2-7 and 10-21, respectively, and are therefore rejected using the same art and rationale as applied above.

***Claim Rejections - 35 USC § 103***

35. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9, 31-32, 54-55, 77-78, and 100-101 are rejected under 35 U.S.C. 103(a) as being unpatentable over Landvater (U.S. 6,609,101).

36. As per claims 8-9, Landvater teaches a selling location identifier associated with good-selling location pairs (See column 8, lines 7-21 and 25-40, column 14, lines 25-67, column 15, lines 10-25, column 19, lines 5-17, and column 21, lines 15-25, column 23, lines 45-65, all of which discuss the inputs of product/location combinations which include a location identifier). However, Landvater does not expressly disclose that the selling location identifier includes a selling location number and a selling location description or that a selling location description table is associated with the selling location identifier.

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Landvater discloses a retail store supply chain that has more than one retail stores, these retail stores of varying types and size, as discussed in column 6, lines 45-60. Landvater further discloses storing sales data about a specific retail location, using the stored data for forecasting, and that the suppliers deliver items to these identified locations based on the forecasts.

Addresses, size, type, sales data, etc. are all selling location descriptive information. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a selling location number with a description associated with a selling location identifier in order to more efficiently forecast for the retail stores of the system by storing more robust information about the selling location in an efficient manner. Furthermore, since Landvater stores descriptive information concerning a selling location, it would have been obvious to one of ordinary skill in the art at the time of the invention to store this descriptive information in a table associated with the selling location identifier in order to more efficiently organize the information of the system, which a well known benefit of using tables.

37. Claims 31-32 recite equivalent limitations to claims 8-9, respectively, and are therefore rejected using the same art and rationale as applied above.

38. Claims 54-55 recite equivalent limitations to claims 8-9, respectively, and are therefore rejected using the same art and rationale as applied above.

39. Claims 77-78 recite equivalent limitations to claims 8-9, respectively, and are therefore rejected using the same art and rationale as applied above.

40. Claims 100-101 recite equivalent limitations to claims 8-9, respectively, and are therefore rejected using the same art and rationale as applied above.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zweben et al. (U.S. 6,216,109) discloses a scheduling system that plans for retailers.

Fox et al. (U.S. 2002/0133385) teaches forecasting for retailers by analyzing sales data and producing a calendar window.

The SPAR Group, Inc. ("SPAR: Merchandising, Information Services and Research") discloses servicing technology that analyzes store-by-store to plan displays and forecasts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (571) 272-6737.

The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*bvd*

bvd

April 22, 2005

  
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